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ELABORATION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Report of the Secretary-General

Addendum

In accordance with Economic and Social Council resolution 1995/29 of 24 July 1995 on the elaboration of a draft optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Secretary-General prepared a comprehensive report, including a synthesis, on the views expressed in accordance with paragraph 5 of that resolution (E/CN.6/1996/10). After the report was completed, the views of the Government of the United Kingdom were received. They are reported below.

* E/CN.6/1996/1.

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1. The United Kingdom is of the opinion that the introduction of an optional protocol is not appropriate at the present time. The United Kingdom also has concerns about the proposed protocol in its present form. Notwithstanding its concerns, the United Kingdom is prepared to work together with other States parties to ensure that any protocol which may be adopted results in an effective instrument and submits its views in response to the consultation exercise in that spirit.

2. Through its scrutiny of national reports the Committee on the Elimination of Discrimination against Women already has the power to assess progress by States parties in meeting the wide-ranging provisions of the Convention. The United Kingdom recognizes the efforts made by the United Nations to secure the efficient operation of the Committee. However, it believes that at the present time an efficient Committee and the encouragement to all States parties to submit timely periodic reports are the most effective ways of enforcing provisions and reaching those women most in need of support. To proceed with an optional protocol now risks diverting United Nations focus and resources to further scrutiny of those States parties that ratify the optional protocol - in many cases likely to be among the most advanced on equality issues.

3. The United Kingdom believes that an optional protocol would add to the administrative costs of the United Nations and States parties without providing concomitant benefits to those women most in need. It seeks an analysis of the costs of implementation of an optional protocol and clarification on the apportionment of costs between States parties. On a specific point about costs: is it necessary for the optional protocol to stipulate a minimum time period in which the Committee can meet of not less than three weeks? This proposal should be reconsidered.

4. The United Kingdom is also concerned that the proposed protocol appears in some respects to be broader than optional protocols already available under, for example, the International Covenant on Civil and Political Rights. The Committee would have power to consider complaints from persons or groups having a sufficient interest in, but not directly affected by, the failure of a State party to comply with its obligations under the Convention; by contrast, the optional protocol to the Covenant permits only individuals who claim to be victims of such a violation to bring a complaint before the Committee. The United Kingdom would be grateful for clarification on this matter and the reasons for the apparently broader approach under the Convention.

5. The United Kingdom is also doubtful whether the obligations in the Convention, some of which are drafted in general terms, can be susceptible to a judicial approach. It seems likely that many of the obligations would be open to wide interpretation, rendering the outcome to any specific complaint unpredictable. The United Kingdom notes that the existing duties and powers of the Committee were those given to it at the time the substantive provisions of the Convention were adopted, and it is doubtful whether those should be extended.

6. Turning to some points of detail, in which the comments of the United Kingdom are without prejudice to its objections in principle: with regard to paragraph 9 (f) of suggestion 7, 1/ the United Kingdom would not wish to see

Committee intervention in issues which had not exhausted domestic remedies and would wish to see the phrase "unless the Committee considered that requirement unreasonable" deleted. Alternatively, the meaning of this phrase should be clarified in the protocol.

7. The United Kingdom also seeks clarification about the responsibility of the State party to redress violations (including the payment of reparations) of the Convention (paras. 7 and 13 of suggestion 7) and would hope to see that responsibility set out in a further draft of the protocol or explanatory note.

8. Finally, on issues of timing, the United Kingdom would hope to see a change in the proposal that acts or omissions before the ratification of or accession to the Convention might also be considered (para. 9 (d)). This is essentially a retrospective measure, which would run contrary to the general principles of legal practice. Furthermore, the draft does not incorporate any time-limit within which complaints must be submitted, which is likely to create a great deal of legal and administrative uncertainty. The United Kingdom would hope to see a reasonable time-limit incorporated in the protocol.

Notes

1/ Official Records of the General Assembly, Fiftieth Session, Supplement No. 38 (A/50/38), chap. I.B.